In the High Court of Punjab and Haryana, Chandigarh

C.E.A. No. 152 of 2006

Date of Decision: 01.02.2007

Commissioner of Central Excise Commissionerate, Jalandhar

…Appellant

Versus

M/s Gauri Shankar Processors Private Limited, Majitha Road, Amritsar

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mrs. Daya Chaudhary,
Assistant Solicitor General of India,
for the Appellant.

JUDGMENT

M.M. KUMAR, J.

The instant appeal under Section 35-G of the Central Excise Act, 1944, has been filed against the order dated 9.1.2006 (P-3), passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi, to adjudicate upon the following substantial question of law:-

> Whether the provisions relating to mandatory penalty under Rule 96ZQ 5(ii) of Central Excise Rules, 1944, that provides for penalty equal to an amount of duty outstanding or rupees five thousand, whichever is

greater, can be interpreted to give discretion in the hand of adjudicating/appellate authority for imposing lesser amounts of penalty especially in view of the High Court ruling in the case of Pee Aar Steels (P) Limited v. CCE Meerut, 2004 (93) ECC 633 (All)?

We have considered the submissions made by the learned counsel for the appellant and perused the record. We are of the view that the matter is not res-integra and no question of law would arise, in as much as, the question of law as has been raised in the instant appeal has already been answered against the Revenue by a Division Bench of this Court in the case of **Commissioner, Central Excise Commissionerate, Ludhiana v. M/s K.C. Alloys & Steel Castings, Ludhiana (C.E.A. No. 77 of 2005, decided on 3.8.2006)**. Accordingly, this appeal fails and is dismissed.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

February 1, 2007
Pkapoor